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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
NORTHERN DIVISION

MARIA CALZADA, et al., Plaintiffs, v. ROY CITY, et al., Defendants.	ORDER GRANTING IN PART AND DENYING IN PART [25] DEFENDANTS' MOTION FOR PARTIAL JUDGMENT ON THE PLEADINGS Case No. 1:16-cv-00165-DN District Judge David Nuffer
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This matter came before the Court on December 21, 2017, at 9:00 A.M. on Defendants' Motion for Partial Judgment on the Pleadings (the "Motion"),¹ before District Judge David Nuffer. Plaintiffs were represented by Melinda Checketts Hibbert and L. Miles LeBaron, and Defendants were present and represented by Frank D. Mylar and Andrew Hopkins. After hearing oral argument and discussions on the record,

IT IS HEREBY ORDERED that the Motion² is GRANTED IN PART and DENIED IN PART as follows:

¹ [Docket no. 25](#), filed March 21, 2017.

² *Id.*

1. **State Tort Claims:** The parties agree and the court orders that Plaintiffs' Fifth Cause of Action is dismissed based upon the Utah Governmental Immunity Act.

2. **Governmental Units:** The defendant departments, Roy City Police Department and Weber County Sheriff's Office, are dismissed because they are not separate legal entities from RoyCity and Weber County, respectively, but the remaining claims against Roy City and Weber County may proceed.

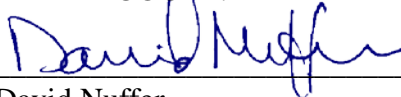
3. **Standing:** Constitutional claims may only be asserted by the estate of Jose Calzada. Plaintiffs Maria Calzada and Manuela Rosales may proceed as Plaintiffs only as the personal representatives of the Estate of Jose Calzada. The pleadings shall be changed going forward to reflect that they are not suing as individuals, but only as representing the estate.

4. **Utah Constitution:** The parties agree, and it is ordered, that claims under Article 1, Sections 6 and 25 are dismissed. In addition, the Court concludes that an adequate remedy for Jose Calzada's estate is available under 42 U.S.C. § 1983, under the Fourth Amendment of the United States Constitution in this particular case.

5. **First, Second and Third Causes of Action.** All aspects of Plaintiffs' first three causes of action shall remain in the case and shall proceed forward at this time. Plaintiffs' Fourth and Fifth Causes of Action are dismissed.

Dated January 8, 2018.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer
United States District Judge